

### **REMARKS**

Applicant has carefully reviewed and considered the Notice of Non-Compliant Amendment mailed on October 20, 2003. No claims are amended, canceled or added. Claims 40, 41, and 45-76 are pending in this application. Applicant intends for the listing of pending claims for this application to be modified when the Examiner considers and enters Applicant's Amendment and Response filed July 23, 2003, in response to the Office Action mailed April 23, 2003.

#### **Non-Responsive Amendment Rejection**

The Office Action states that Applicant's Amendment and Response filed on July 23, 2003 is not fully responsive to the prior Office Action (mailed April 23, 2003), because "the new IDS filed on July 31, 2003, is noted (which is a subset of the previous IDS filed on May 29, 2001 through May 7, 2002); however, it is unclear to the Examiner that whether the Examiner should still consider the rest (besides the new IDS filed on July 31, 2003) of the IDS filed on May 29, 2001 through May 7, 2002 . . ." The Examiner indicated that the July 23, 2003 reply appears to be *bona fide*.

Applicant respectfully traverses this rejection. The reply filed on July 23, 2003 is a separate paper from the IDS filed on July 31, 2003. Accordingly, Applicant does not understand how the later filed IDS is used as a basis for claiming that the reply is not fully responsive. Applicant requests clarification (e.g., a citation from the July 23, 2003 response, the CFR, and/or the MPEP), which indicates how the July 23, 2003 response is not fully responsive. Absent such clarification, Applicant respectfully requests that the Examiner now consider the July 23, 2003 response.

#### **Information Disclosure Statements**

Applicant believes that the IDS filed on July 31, 2003 is fully compliant with 37 CFR 1.98. Accordingly, Applicant respectfully requests that the Examiner consider the IDS and the references cited therewith.

The April 23, 2003 Office Action states that the IDS filed by Applicant between May 29, 2001 through May 7, 2002 fail to comply with 37 CFR 1.98(a)(3), because they do not include

concise explanations of the relevance. Accordingly, the Examiner has placed those IDS in the file, but has not considered the information.

It is Applicant's understanding that 37 CFR 1.98(a)(3) requires a concise explanation of relevance only when a reference is in a foreign language. In the July 31, 2003 IDS, Applicant provided a concise explanation of relevance for the following reference: JP-63-066963, Minegishi, K., filed 03/25/1988. Applicant believes that this statement of relevance makes moot the argument regarding non-compliance for the previous IDS filed between May 29, 2001 and May 7, 2003. With regard to the various cited references in the previous IDS, they originate from patent applications that include one or more common inventors, and/or they originate from patent applications identified in the record of the present case as a co-pending application.

Based on the above, Applicant believes that it is appropriate for the Examiner to consider all references cited in the IDS filed between May 29, 2001 and July 31, 2003. Applicant respectfully requests that the Examiner consider each of these IDS and the associated references, and return the signed PTO-1449 forms in the next communication.



Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney, Sherry Schumm ((480) 657-3766) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

WENDELL P. NOBLE JR. ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 373-6904

Date Nov. 18, 2003

By Daniel J. Kluth  
Daniel J. Kluth  
Reg. No. 32,146

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O.Box 1450, Alexandria, VA 22313-1450, on this 18th day of November, 2003.

Amy Moriarty  
Name

Amy Moriarty  
Signature

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